

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**December 11, 2001**

**IN RE:**

**BANKERS LIFE AND CASUALTY OF CHICAGO**

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) **DOCKET NO. 01-00609**

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**ORDER APPROVING SETTLEMENT AGREEMENT**

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This matter came before the Tennessee Regulatory Authority ("Authority" or "TRA") at a regularly scheduled Authority Conference held on July 24, 2001, for consideration of a proposed Settlement Agreement between the Consumer Services Division of the TRA (the "CSD") and Bankers Life and Casualty of Chicago ("Bankers Life") for violations of the Tennessee Do-Not-Call Telephone Sales Solicitation statutes, Tenn. Code Ann. § 65-4-401 *et seq.* The proposed Settlement Agreement is attached hereto as Exhibit A.

Tenn. Code Ann. § 65-4-404 and Tenn. Comp. R. & Regs. 1220-4-11-.07(1) prohibit persons and entities from knowingly making or causing to be made telephone sales solicitation calls to any residential subscribers in this state who have given timely and proper notice to the Authority of their objection to receiving telephone solicitations. Tenn. Code Ann. § 65-4-405(f) authorizes the Authority to initiate proceedings relative to violations of the Do-Not-Call statutes and the TRA rules and regulations (Tenn. Comp. R. & Regs. 1220-4-11-.01 *et seq.*) promulgated pursuant to the Do-Not-Call statutes. "Such proceedings may include without limitation proceedings to issue a cease and desist order,

to issue an order imposing a civil penalty up to a maximum of two thousand dollars (\$2,000) for each knowing violation and to seek additional relief in any court of competent jurisdiction.” Tenn. Code Ann. § 65-4-405(f).

Between November 2, 2000 and May 8, 2001, the CSD received two (2) separate complaints against Bankers Life from Tennessee consumers whose residential telephone numbers were properly and timely registered on the Tennessee Do-Not-Call Register. During the investigation of these complaints, the CSD determined that Bankers Life had registered as a solicitor on November 14, 2000, after the first complaint was filed. Bankers Life faced a maximum civil penalty of six thousand dollars (\$6,000) for these three (3) violations.

The proposed Settlement Agreement was negotiated as the result of the CSD’s investigation into the complaints against Bankers Life. In negotiating the terms and conditions of this Settlement Agreement, the CSD took into consideration Tenn. Code Ann. § 65-4-116(b), which provides:

In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, may be deducted from any sums owing by the state to the person, firm or corporation charged or may be recovered in a civil action in the courts of this state.

Bankers Life is a corporation headquartered in Chicago, Illinois with approximately one thousand employees, approximately twelve of whom work in Tennessee. The field office from which the solicitations at issue were made is in Brentwood, Tennessee. The CSD’s investigation revealed that Bankers Life has no known history of violating the statutes and rules enforceable by the Authority and has not engaged in a pattern of

continued violations of Tenn. Code Ann. § 65-4-401 *et seq.* Upon receiving notice of the alleged violations, Bankers Life cooperated fully with the CSD's investigation of the above mentioned complaints. Further, after receiving notice of the first complaint, Bankers Life expeditiously registered in the Tennessee Do-Not-Call Program.

As a part of this Settlement Agreement, Bankers Life agrees to implement measures, as outlined in Exhibit A, to prevent similar occurrences in the future. In addition, Bankers Life will pay to the Authority the amount of four thousand dollars (\$4,000) within thirty (30) days of the date of the Authority's approval of the Settlement Agreement.<sup>1</sup>

Mr. James Armbruster, an attorney representing Bankers Life, participated telephonically during the Authority Conference on July 24, 2001. Following a discussion with the parties and a review of the Settlement Agreement, the Directors voted unanimously to accept and approve the Settlement Agreement.

**IT IS THEREFORE ORDERED THAT:**

1. The Settlement Agreement, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein.

2. The amount of four thousand dollars (\$4,000) shall be paid by Bankers Life into the Public Utilities Account of the TRA thirty (30) days from the date of the Authority's approval of the Settlement Agreement.

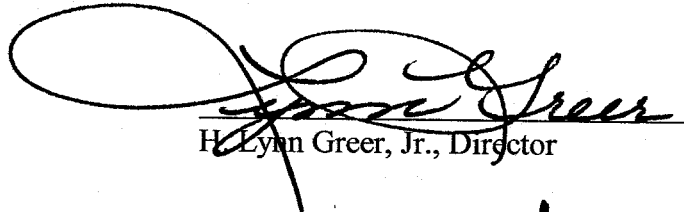
3. Upon payment of the amount of four thousand dollars (\$4,000), Bankers Life is excused from further proceedings in this matter, provided that, in the event of any failure on the part of Bankers Life to comply with the terms and conditions of the

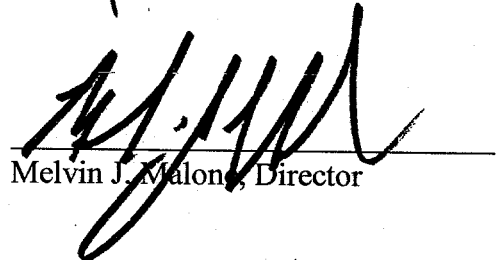
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<sup>1</sup> Bankers Life and Casualty Company paid the total sum of \$4,000 into the Public Utilities Account of the TRA on September 12, 2001.

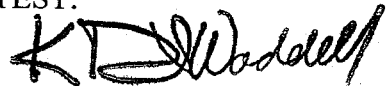
Settlement Agreement, the Authority reserves the right to re-open this docket.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary

**THE TENNESSEE REGULATORY AUTHORITY****AT NASHVILLE, TENNESSEE**

IN RE:

ALLEGED VIOLATIONS OF Tenn. Code Ann.  
§65-4-401 *et seq.*, DO-NOT-CALL SALES  
SOLICITATION LAW, AND RULES OF  
TENNESSEE REGULATORY AUTHORITY,  
CHAPTER 1220-4-11, BY:

BANKERS LIFE AND CASUALTY COMPANY,  
INC.

DO-NOT-CALL  
PROGRAM  
FILE NUMBERS:

T00-00410  
T01-00273

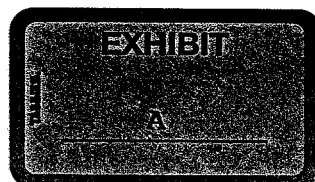
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**SETTLEMENT AGREEMENT**

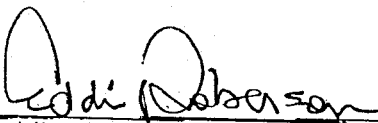
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This Settlement Agreement has been entered into between the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA") and Bankers Life and Casualty Company, Inc. and is subject to the approval of the directors of the TRA. This Settlement Agreement pertains to two (2) separate complaints received by the CSD alleging that Bankers Life and Casualty Company, Inc. violated the Tennessee Do-Not-Call Telephone Sales Solicitation law, Tenn. Code Ann. § 65-4-404, and Tenn. Comp. R. & Regs. 1220-4-11-.07(1), by making or causing to be made telephone sales solicitation calls to the residential telephone numbers of two (2) individual Tennessee consumers whose residential telephone numbers were registered on the Tennessee Do-Not-Call Register.

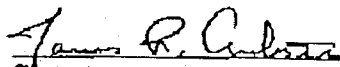
In an effort to resolve these two (2) complaints, represented by the file numbers above, the CSD and Bankers Life and Casualty Company, Inc. agree to settle these complaints based upon the following acknowledgements and terms subject to approval by the Directors of the TRA:



1. Bankers Life and Casualty Company, Inc. is registered with the TRA as a telephone solicitor and obtains a copy of the Do-Not-Call Register.
2. Recognizing that one of its local offices in Brentwood, Tennessee, allegedly violated company policies and Tenn. Code Ann. §65-4-404 and Tenn. Comp. R. & Regs. 1220-4-11-.07(1), Bankers Life and Casualty Company, Inc. will accept responsibility for the two (2) complaints represented by the two file numbers shown above.
3. Bankers Life and Casualty Company, Inc. agrees to the maximum civil penalty of two thousand dollars (\$2,000.00) per alleged violation as authorized by Tenn. Code Ann. §65-4-405(f), and agrees to remit the amount of four thousand dollars (\$4,000.00) to the TRA within thirty (30) days after the date the Directors of the TRA approve this Settlement Agreement.
4. This Settlement Agreement settles the two specific cases represented by the two file numbers shown above, and all other possible violations which might have occurred up to the date of this Settlement Agreement.
5. Bankers Life and Casualty Company, Inc. agrees that a company representative will be available telephonically for the Authority conference at which this Settlement Agreement is considered by the Directors for approval.
6. Bankers Life and Casualty Company, Inc. agrees to comply with all provisions of the Tennessee Do-Not-Call Telephone Sales Solicitation law and regulations.

  
Eddie Roberson  
Chief, Consumer Services Division  
Tennessee Regulatory Authority

7/13/01  
Date

  
Signature  
JAMES R. AMBROSE  
Print Name  
ATTORNEY, PROBATE APPROVAL & COMPLIANCE  
Print Title

Bankers Life and Casualty Company, Inc.

7/13/01  
Date